



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	HB0535	<b>Title:</b>	Revise mandatory minimum penalties for unlawful sexual conduct offenses
<b>Primary Sponsor:</b>	Wagoner, Kirk	<b>Status:</b>	As Introduced

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund	\$40,503	\$148,790	\$202,662	\$206,716
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$40,503)</u>	<u>(\$148,790)</u>	<u>(\$202,662)</u>	<u>(\$206,716)</u>

**Description of fiscal impact:** HB 535 amends current law by imposing a mandatory minimum sentence of two years in a state prison on a number of sexual crimes. The Probation and Parole Division at the Department of Corrections will see a cost savings from people moving to secure care as a result of the minimum sentence, while adult secure care will see an increase in costs.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Corrections**

1. HB 535 amends current law by removing a number of sexual crimes from the mandatory minimum restrictions on sentencing.
2. HB 535 prohibits deferral or suspension of the first 30 days for indecent exposure if the victim is less than 16 years of age. Because this is a misdemeanor, it will have no impact to the Department of Corrections.
3. HB 535 also adds "incest" and "deviate sexual conduct" (both felonies) to the list of crimes for which the first two years of a state prison sentence cannot be deferred or suspended.
4. The Department of Corrections has no record of offenders convicted of felony "deviate sexual conduct."
5. There has been an average of 21 felony convictions each year for incest over the past five years.

6. There has been an average of three convictions each year where the offender had a deferred, partially suspended, or fully suspended sentence that would become a two-year minimum prison sentence.
7. Three offenders a year would move from Probation and Parole supervision to secure care at Montana State Prison or Montana Women's Prison.
8. Probation and Parole would see a cost savings from three offenders moving to secure care. The cost per day for Probation and Parole is \$5.15. This equates to a savings of \$2,333 in FY 2016, \$8,615 in FY 2017, \$11,734 in FY 2018, and \$11,969 in FY 2019.
9. Adult secure care would see an increase in costs from these three offenders. Using a blended rate for males and females, the cost of incarceration is \$94.56 per day. This equates to an additional cost of \$42,836 in FY 2016, \$157,404 in FY 2017, \$214,397 in FY 2018, and \$218,684 in FY 2019.
10. The total net cost for the Department of Corrections is \$40,503 for FY 2016, \$148,790 for FY 2017, \$202,662 for FY 2018, and \$206,716 for FY 2019.
11. Costs are calculated with a 1.5% inflationary rate each year starting in FY 2017.

**Office of the State Public Defender**

12. The Office of the State Public Defender (OPD) has the statutory obligation to represent individuals charged with a crime who cannot afford to hire counsel, represent individuals on direct appeal, and also to provide counsel if there is a conflict of interest. HB 535, if passed, may increase trial level cases and appellate level cases in an unknown quantity.

	<b><u>FY 2016 Difference</u></b>	<b><u>FY 2017 Difference</u></b>	<b><u>FY 2018 Difference</u></b>	<b><u>FY 2019 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
<b>FTE</b>	0.00	0.00	0.00	0.00
<b><u>Expenditures:</u></b>				
Operating Expenses	\$40,503	\$148,790	\$202,662	\$206,716
<b>TOTAL Expenditures</b>	<u>\$40,503</u>	<u>\$148,790</u>	<u>\$202,662</u>	<u>\$206,716</u>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$40,503	\$148,790	\$202,662	\$206,716
<b>TOTAL Funding of Exp.</b>	<u>\$40,503</u>	<u>\$148,790</u>	<u>\$202,662</u>	<u>\$206,716</u>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$40,503)	(\$148,790)	(\$202,662)	(\$206,716)

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Sponsor's Initials\_\_\_\_\_  
Date\_\_\_\_\_  
Budget Director's Initials\_\_\_\_\_  
Date